

REMARKS

After entry of the above amendments, the claims pending in the subject application are 6-29. Reconsideration of this application based on the Amendments and Remarks presented herein is respectfully requested. Claim 6 has been amended. Support for the amendments can be found on page 4, lines 12-13; page 5, line 12; and on page 6, lines 28-29.

35 U.S.C. §103 REJECTIONS

Claims 6-29 were rejected under 35 U.S.C. §103(a) as being unpatentable over WO 01/85103 to Laden et al. in view of Flick (Cosmetic Additives: An Industrial Guide), and United States Patent No. 4,673,526 to Zabotto et al.

Zabotto '526 discloses that when a wax is present in the composition, the ratio of oil or oil mixture to wax is generally 1:1 to 3:1 (column 2, lines 61-62). If Zabotto '526 were combined with WO 01/85103, the combination would also require this ratio. In Example 3 in Zabotto '526 in column 5, the amount of magnesium stearate is 10 weight%. In Example 5 in Zabotto '526, the amount of HOSTAPHAT KW 340N (an emulsifier, which is an ester of phosphoric acid and ethoxylated fatty acid) is 14 weight%.

Amended claim 6 now recites that the at least one water immiscible emollient oil is present in a minimum amount of about 25 weight % of the composition, and that the wax is present in an amount that is no more than about 7 weight % of the composition. The resulting amount of oil is greater than 3 times the amount of wax in the composition. Zabotto '526 alone or in combination with WO 01/85103 does not disclose or suggest the ratio of oil to wax in claim 6 that results from the amounts of the oil and the wax required by the claim along with the selection for the amount of the oil, the amount of the emulsifying agent, and the amount of the wax. Therefore, it is respectfully submitted that claims 6-29 are patentable over WO 01/85103 to Laden et al. in view of Flick (Cosmetic Additives: An Industrial Guide), and United States Patent No. 4,673,526 to Zabotto et al.

In view of the amendments and remarks contained above, Applicants respectfully request reconsideration of the application, withdrawal of the 35 U.S.C. §103 rejections, and request that a Formal Notice of Allowance be issued for claims 6-29. Should the Examiner have any questions about the above remarks, the undersigned attorney would welcome a telephone call.

Respectfully submitted,
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/Michael F. Morgan/

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